

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

(1) JA'LEE FOREMAN, JR.,	)	
(2) DANIEL HEDRICK,	)	
(3) JOSEPH MITCHELL, and	)	
(4) JOHN BASCO,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-21-1062-F
	)	
(1) OKLAHOMA COUNTY SHERIFF,	)	
(2) OKLAHOMA COUNTY CRIMINAL	)	
JUSTICE AUTHORITY,	)	JURY TRIAL DEMANDED
(3) BOARD OF COUNTY	)	
COMMISSIONERS, FOR	)	
OKLAHOMA COUNTY,	)	
(4) CHRISTIAN CHARLES MILES,	)	
(5) GREGORY CORNELL BUTLER, JR.,	)	
	)	
Defendants.	)	

**REPLY TO PLAINTIFFS' RESPONSE IN OPPOSITION  
TO DEFENDANTS MILES AND BUTLER JR.'S  
PARTIAL MOTION TO DISMISS AND BRIEF IN SUPPORT**

Defendants Christian Miles and Gregory Butler, Jr. ("Defendants"), by and through counsel, pursuant LCvR 7.1(i), file this Reply to "Plaintiffs' Response in Opposition to Defendants Miles and Butler, Jr.'s Partial Motion to Dismiss" (Dkt. 42). In further support of their Partial Motion to Dismiss, Defendants state as follows:

In their Response, Plaintiffs reiterate their allegations that they were pre-trial detainees at the time pertinent to the Complaint. (Dkt. 42, p. 2, ¶ 4). However, Plaintiffs do not respond to the Defendants' legal argument that – as pre-trial detainees – their claims against the Defendants arise under the Fourteenth Amendment to the U.S. Constitution, not

the Fourth or Eighth Amendments. Rather, Plaintiffs assert that they “invoked subject matter jurisdiction with respect the Fourth and/or Eighth Amendment out of an abundance of caution” because “should discovery reveal that any of the Plaintiffs’ status was that of arrestee or convicted prisoner at the time of the alleged conduct, Plaintiffs do not wish to waive jurisdiction under those provisions.” (Dkt. 42, p. 2, ¶ 5). Additionally, Plaintiffs further assert that “even if Plaintiffs had brought causes of action under the Fourth or Eighth Amendment, dismissal of any such claims would be premature at this early juncture in the case.” (Dkt. 42, p. 2, ¶ 6).

However, Plaintiffs’ stated concern about waiving jurisdiction for any potential Fourth and/or Eighth Amendment claims is baseless. Likewise, Plaintiffs’ assertion that the dismissal of any potential Fourth and/or Eighth Amendment claims would be premature at this point is without support. If discovery in this case should indicate that the status of any of the Plaintiffs was indeed that of an arrestee or convicted prisoner at the time pertinent to the Complaint, then Plaintiffs can always seek leave to amend the Complaint to re-assert any corresponding Fourth and/or Eighth Amendment claims against the Defendants. Such an amendment would relate back to the date of the filing of the original Complaint under Fed. R. Civ. P. 15. As such, the Defendants Motion should be granted and, to the extent that they have alleged violations of their rights under the Fourth and Eighth Amendments, such claims should be dismissed.

### **CONCLUSION**

WHEREFORE, premises considered, Defendants Christian Miles and Gregory Butler, Jr. respectfully request the Court to grant this Motion and to dismiss Plaintiffs’

Complaint to the extent that Plaintiffs have asserted any 42 U.S.C. § 1983 Fourth and Eighth Amendment claims against them pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted.

Respectfully submitted,

s/ W.R. Moon, Jr.

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 14, 2023, I electronically transmitted this filing to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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